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McGeorge Law Review

Volume 16 | Issue 2

Article 24

1-1-1985

Juveniles

University of the Pacific; McGeorge School of Law

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Recommended Citation

University of the Pacific; McGeorge School of Law, *Juveniles*, 16 PAC. L. J. 693 (1985).

Available at: <https://scholarlycommons.pacific.edu/mlr/vol16/iss2/24>

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Juveniles

Juveniles; sealing of records

Welfare and Institutions Code §§781, 16514 (amended).
AB 3728 (Baker); 1984 STAT. Ch 1429

Existing law provides that the subject of a juvenile court proceeding¹ may petition the court² to seal the juvenile records.³ A petition may be filed only after five years have elapsed since jurisdiction of the juvenile court has terminated or after a party has reached the age of eighteen years.⁴ Upon a showing that a petitioning party is rehabilitated and has not been subsequently convicted of a felony or a misdemeanor,⁵ existing law provides that the court shall order the records sealed.⁶ Once the records are sealed, the juvenile proceedings shall be deemed never to have occurred.⁷ Chapter 1429 provides that whenever a party is convicted of specified offenses,⁸ the court must wait until at least three years have elapsed since commission of the offense before the records can be sealed.⁹

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1. CAL. WELF. & INST. CODE §781 (juvenile proceedings).
 2. The county probation officer may also petition the court. *Id.* §781(a).
 3. *Id.* Records include papers, minute book entries, and any other records relating to the case. *Id.*
 4. *Id.*
 5. *Id.* (misdemeanor involving moral turpitude).
 6. *Id.*
 7. *Id.*
 8. *Id.* §707(b) (listing of specified offenses).
 9. *Id.* §781(a).

Juveniles; juvenile court—hearings

Welfare and Institutions Code §657 (amended).
AB 3278 (Clute) 1984 STAT. Ch 158

Under existing law, the clerk of the juvenile court must set a hearing

date¹ within thirty days of the filing of a petition to declare a minor a ward of the court.² If a minor is detained in custody, however, the petition must be set for hearing within fifteen judicial days from the date of the detention order.³ Chapter 158 provides that in the case of the minor who is not before the juvenile court at the time the petition is filed, but for whom a warrant of arrest has been issued,⁴ the hearing must be stayed until the minor is brought before the court pursuant to the arrest warrant.⁵ The petition then must be set for a hearing within thirty days of the minor's first court appearance on the petition.⁶ If the minor is being detained in custody, the petition must be set for hearing within fifteen days from the date of the court order directing the detention.⁷

1. See CAL. WELF. & INST. CODE §§675-708 (procedures for ward of court hearings).

2. *Id.* §657(a).

3. *Id.* §657(a)(1).

4. A warrant can be issued pursuant to California Welfare and Institutions Code sections 601 (refusal to obey orders of parents) or 602 (violation of law); when the minor's conduct may endanger the person or property of himself or others; or when the minor's home environment may be injurious to the minor. *Id.* §663.

5. *Id.* §657(a)(2).

6. *Id.*

7. *Id.* See *id.* §657(a)(1) (exception comports with existing law).

Juveniles; temporary custody

Welfare and Institutions Code §306 (amended).

SB 2123 (Marks); 1984 STAT. Ch 1611

Under existing law, a social worker in a county welfare department, while acting within the scope of his regular duties, may receive and maintain temporary custody,¹ pending court hearing, of a minor who is, or is alleged to be, a dependent child of the juvenile court² and who has been delivered to the social worker by the probation officer.³ A social worker also may take into temporary custody, without a warrant, a minor who has been declared a dependent child of the juvenile court.⁴ With the enactment of Chapter 1161, a social worker

1. See CAL. WELF. & INST. CODE §206 (facilities for maintaining custody of dependent children of the juvenile court).

2. See *id.* §300 (persons subject to the jurisdiction of the juvenile court).

3. *Id.* §306(a).

4. *Id.* §306(b).

may take a minor into temporary custody without a warrant, when the social worker reasonably believes that the minor is in need of proper and effective care or control which the minor's parent or guardian is unable or unwilling to provide, or is destitute or is not being provided with the necessities of life or a suitable home.⁵

5. *Id.* §306(c). *See id.* §§300(a) (a minor in need of proper and effective parental care or control is subject to the jurisdiction of the juvenile court), 300(b) (a minor who is destitute or is not being provided with the necessities of life or a suitable home is subject to the jurisdiction of the juvenile court).

Juveniles; disposition and placement

Welfare and Institutions Code §391.1 (new); §§319, 360, 361, 366, 366.25, 11400, 11401, 11404.1 (amended); Civil Code §232 (amended). SB 1293 (Presley); 1984 STAT. Ch 1608*

Under existing law, when a minor¹ is adjudged a dependent² of the court, a permanency planning hearing³ is conducted⁴ for the purpose of ensuring a stable and permanent home for the minor.⁵ Prior law provided that the permanency planning hearing was to be conducted no later than twelve months after the original foster care placement, and thereafter conducted periodically, but not less frequent than once each eighteen months during the continuation of foster care.⁶ Under Chapter 1608, the permanency planning hearing is to be conducted no later than twelve months after the original dispositional hearing and in no case later than eighteen months from the time of the minor's original placement⁷. Thereafter, the permanency planning hearing is to be held periodically.⁸

* The scope of this review only includes the provisions relating to the disposition and placement of minors.

1. CAL. WELF. & INST. CODE §300 (definition of a minor).
2. *Id.* §360 (procedure for adjudging a minor a dependent of the court).
3. *Id.* §11400(h) (definition of permanency planning hearing).
4. *Id.*
5. *Id.*
6. *Id.* §366.25. *See also Review of Selected 1982 California Legislation*, 14 PAC. L.J. 667 (1983) (discussion of prior law).
7. CAL. WELF. & INST. CODE §366.25(a).
8. CAL. WELF. & INST. CODE §366.25(a).

Under existing law, if the court determines at the permanency planning hearing that no substantial probability exists that the minor will be returned to the parents within six months of continued foster care,⁹ the court must develop a plan to provide a permanent home for the minor.¹⁰ The court also is required to determine if adoption is available.¹¹ Chapter 1608 provides that if a minor is found to be adoptable, a foster parent who has cared for the minor shall be given preference¹² over all other applicants for adoption of the minor upon determining that the minor has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.¹³

Existing law provides that if the court finds that the minor is not adoptable and no suitable adult is available to become the legal guardian, the court must order the county welfare department or probation department to facilitate the placement of the minor in a home environment.¹⁴ With the enactment of Chapter 1608, if the court additionally finds no suitable foster parents except exclusive-use homes,¹⁵ the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed homefinding agency.¹⁶ The homefinding agency must place the minor in a suitable licensed or exclusive-use home.¹⁷ The homefinding agency is responsible for supporting the minor and for providing appropriate services, including any services ordered by the court.¹⁸ Chapter 1608 further provides that the homefinding agency is not liable to third persons injured by the minor.¹⁹ The homefinding agency is required to submit a report every six months to the court for each minor in its care.²⁰ The report is to address the continued appropriateness and the extent of compliance with the minor's permanent plan, case plan,²¹ and the type and adequacy of the services provided to the minor.²²

9. *Id.* §11400(e)(definition of foster care).

10. *Id.* §366.25(d).

11. *Id.*

12. *Id.* §366.25(k).

13. *Id.*

14. *Id.* §366.25(d)(3).

15. *Id.* §11400(c) (definition of exclusive-use home).

16. *Id.* §366.25(d)(4)(A). CAL. HEALTH & SAFETY CODE §1502(4) (definition of licensed homefinding agency).

17. CAL. WELF. & INST. CODE §366.25(d)(4)(B).

18. *Id.* Chapter 1608 also provides that minors transferred to a homefinding agency are not eligible for foster care maintenance payments or child welfare services except for emergency response services. *Id.* §16504 (dealing with emergency response services).

19. *Id.* §366.25(d)(4)(B).

20. *Id.* §366.25(d)(4)(C).

21. *Id.* §11400(b) (definition of case plan).

22. *Id.* §366.25(d)(4)(C).

Juveniles; legal services and probation supervision

Welfare and Institutions Code §903.4 (amended); §903.45 (new).
SB 1913 (Watson); 1984 STAT. Ch 1720

Existing law provides that any party responsible for the support of a minor child¹ is liable for the costs of legal services² or probation supervision provided by the county.³ Under prior law these costs were collected through the district attorney's office.⁴ Chapter 1720 provides that a county officer is to make financial evaluation of the responsible party's liability to reimburse the county for the costs incurred for legal services or probation supervision.⁵

Chapter 1720 specifies the process for making financial determination of liability.⁶ At the close of any disposition hearing, the juvenile court shall order any party liable for the minor's legal services or probation costs to appear before the county officer for financial evaluation.⁷ If the county officer determines that the party has the ability to pay all or part of the costs, the officer must petition the court for an order requiring payment.⁸ Any party appearing for a financial evaluation may dispute the findings before the juvenile court.⁹ If the court determines that the party has the ability to pay all or part of the costs,¹⁰ the court shall set the amount and order payment in a manner which is reasonable and compatible with the party's financial ability.¹¹ At any time prior to the satisfaction of a judgment, however,

1. Responsible parties include the father, mother, spouse, or any other party liable for the support, the estate of such a party, and the estate of the minor. *See* CAL. WELF. & INST. CODE §§903.1, 903.2.

2. The transfer may be made by sale, exchange, or real property sales contract. CAL. CIV.

3. *Id.* §903.2.

4. *See* 1982 Cal. Stat. c. 1276, §5, at 6835 (adding CAL. WELF. & INST. CODE §903.4).

5. CAL. WELF. & INST. CODE §903.45. Chapter 1720 repeals the district attorney's ability to collect costs for legal services and probation supervision rendered. *See* 1982 Cal. Stat. c. 1276, §5, at 6835 (adding CAL. WELF. & INST. CODE §903.4(c)(1)).

6. CAL. WELF. & INST. CODE §903.45.

7. *Id.* §903.45(b).

8. *Id.* In evaluating a person's ability to pay, the county officer and the court must take into consideration the family's income, the necessary obligations of the family, and the number of persons dependent upon this income. *Id.*

9. *Id.* The officer has a duty to inform the party evaluated of the right to a hearing. *Id.* §903.45(b). Furthermore, the party is entitled to have, but is not limited to, (1) the opportunity to be heard in person, (2) the right to present witnesses and other documentary evidence, (3) the chance to confront and cross-examine adverse witnesses, (4) a review of the evidence against them, (5) a written statement of the findings of the court, and (6) the right to be represented by counsel, including having counsel appointed if the party can not afford counsel. *Id.*

10. Payment includes the costs of any counsel appointed. *Id.*

11. *Id.*

the party may petition the court to modify or vacate the order.¹² Furthermore, any amount unpaid at the termination of the jurisdiction over the minor may be included in an executive order.¹³ In the event the responsible party fails to appear for a financial evaluation, the court may issue an order requiring immediate payment of the costs by the responsible party.¹⁴

12. *Id.* §903.45(c). The petition must be based upon a change in circumstances relating to the ability to pay the judgment. *Id.*

13. *Id.* §903.45(d).

14. *Id.* §903.45(b). The court order must be based upon a petition filed by the county officer. *Id.*